

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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INCLINE CAPITAL GROUP, LLC,

Plaintiff,

v.

OPTUM SERVICES, INC.,

Defendant.

Case No. 3:20-cv-00523-MMD-CLB

ORDER

Defendant Optum Services, Inc. ("Optum") removed this case from Nevada state court on September 15, 2020, based on diversity jurisdiction. (ECF No. 1.) Federal district courts have original jurisdiction over civil actions where the matter is between citizens of different states, and where the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1332(a). Although corporations are citizens of any state in which they are incorporated or have their principal place of business, "an LLC is a citizen of every state of which its owners/members are citizens." *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006).

Optum asserts that complete diversity exists because "Incline Capital is and at all relevant times has been a citizen of Nevada." (ECF No. 1 at 2.) But as "the party asserting diversity jurisdiction[, Optum] bears the burden of proof." *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857-58 (9th Cir. 2001). Optum has not met its burden. Instead, Optum has yet to identify any members of Plaintiff (an LLC) or clarify whether those members are citizens of different states than Defendant. Neither Optum's petition for removal (ECF No. 1 at 1-4) nor its attached exhibit (ECF No. 1 at 6-160) satisfies the diversity of citizenship requirement under 28 U.S.C. § 1332(a).

It is therefore ordered that Optum must show cause as to why the Court should not

1 remand this case. Optum must file a response within 10 days of the date of entry of this
2 order. It is further ordered that Plaintiff Incline Capital Group, LLC may file a further
3 response to Optum's response, within five days after Optum files its response to this
4 order.

5 DATED THIS 17th day of September 2020.

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MIRANDA M. DU
9 CHIEF UNITED STATES DISTRICT JUDGE
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